

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL No. 1456
Master File No. 1:01-CV-12257-PBS
Sub-Category Case No. 1:08-CV-11200

THIS DOCUMENT RELATES TO:
*United States ex rel. Linnette Sun and Greg
Hamilton, Relators*
v.
Baxter Healthcare Corporation

Judge Patti B. Saris

**THE RELATORS' UNOPPOSED MOTION FOR
ENTRY OF A SCHEDULING ORDER**

Counsel for Defendant Baxter Healthcare Corporation and Counsel for Relators Linnette Sun and Greg Hamilton have conferred about a proposed scheduling order. Relators submit an unopposed proposed schedule for the case as set forth in the attached document. Relators hereby request that the Court accept and adopt the unopposed proposed schedule.

Respectfully submitted,

Dated: June 27, 2011

/s/ Mark Allen Kleiman

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Linnette Sun and Greg Hamilton

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[PROPOSED] SCHEDULING ORDER

June 27, 2011

Saris, U.S.D.J.

WHEREAS, Relators Linnette Sun and Greg Hamilton (“Relators”) filed their original Complaint on April 22, 2005 and a First Amended Complaint on June 14, 2005 in the U.S. District Court, District of Colorado;

WHEREAS, the First Amended Complaint was unsealed on January 15, 2008, and assigned Civil Action No. 05-cv-00736-WDM-MJW;

WHEREAS, the matter was transferred to the District of Massachusetts by the Judicial Panel Multidistrict Litigation on July 14, 2008 and assigned case No. 08-cv-11200-PBS;

WHEREAS, the case was consolidated with Case No. 01-cv-12257-PBS (MDL No. 1456) on July 15, 2008;

WHEREAS, on October 15, 2010 the parties filed and on October 28, 2010 this Court approved a proposed scheduling order whereby the parties were to engage in mediation prior to December 31, 2010 in an attempt to resolve this matter and, if not successful, were to file by no later than January 17, 2011, a jointly proposed schedule for further proceedings;

WHEREAS, on January 7, 2011 the parties filed and on January 14, 2011 this Court approved a proposed scheduling order whereby the parties were to continue to engage in mediation prior to March 1, 2011 in an attempt to resolve this matter and, if not successful, were to file by no later than March 15, 2011, a jointly proposed schedule for further proceedings;

WHEREAS, on March 14, 2011 the parties filed and on March 24, 2011, this Court approved a proposed scheduling order whereby the parties were to engage in informal mediation prior to June 24, 2011 in an attempt to resolve this matter, and, should mediation prove unsuccessful, jointly propose that the parties would, by no later than July 15, 2011, jointly propose a schedule to the Court for further proceedings;

WHEREAS, the parties have been working diligently to resolve this matter, and would like to continue to pursue resolution of this matter;

WHEREAS, initially, settlement negotiations with Ven-A-Care included this case; however, as negotiations progressed, Baxter's negotiations focused only on the Ven-A-Care case;

WHEREAS, in the meantime, Baxter has requested a Sun/Hamilton specific settlement demand;

WHEREAS, Sun/Hamilton has been working to access the payment data which would permit the Relators to make a demand based on solid calculation;

WHEREAS, on March 23, 2011 Relators' lead counsel underwent surgery for a partial knee replacement, from which complications developed, effectively incapacitating him until early May, 2011, thus delaying settlement related activities;

WHEREAS, on June 27, 2011, Relators requested extension of the mediation period for ninety days until September 26, 2011.

NOW THEREFORE it is ORDERED, as follows:

1. Relators shall make a specific settlement demand upon Baxter no later than July 5, 2011;
2. Relators and Defendant shall continue to engage in informal mediation prior to September 26, 2011 in an attempt to resolve this matter;
3. All deadlines shall be stayed during the pendency of this mediation period; and
4. Should mediation not be successful, the parties will, by no later than October 13, 2011, jointly propose a schedule to the Court for further proceedings.

So ordered.

Judge Patti B. Saris

CERTIFICATE OF SERVICE

I hereby certify that I, Mark Kleiman, an attorney, counsel for Relators, caused a true and correct copy of the foregoing, **THE RELATOR'S UNOPPOSED MOTION FOR ENTRY OF A SCHEDULING ORDER AND [PROPOSED] SCHEDULING ORDER** to be delivered to all counsel of record by electronic service on June 27, 2011 for the posting and notification of all parties.

BY: /s/ Mark Allen Kleiman
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